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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/895,097
Filing Date: June 29, 2001
Appellant(s): DUTTA ET AL.

MAILED
AUG 01 2007
GROUP 3600

DUTTA ET AL.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/2/07 appealing from the Office action
mailed 11/6/06.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

Wellman, US Patent 6,952,682, 27 August 1996

e-bay, Wayback machine from March 1, 2000

(9) Grounds of Rejection

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The following ground(s) of rejection are applicable to the appealed claims. This is a verbatim copy of the final rejection mailed on 11/06/06.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The Examiner has read and reviewed all of the information provided by the Applicant. The examiner rejects as final claims 1-34 under 35 USC 103.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 & 12-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wellman US Patent 6,952,682 B1 in view of ebay (Non-patent literature – web site from March 1, 2000)

Claims 1-10 & 12-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Wellman US Patent 6,952,682 B1.

Re claim 1: Wellman discloses:

A method of rating online auction users: (see Wellman, title + Column 2, line 21 "rating" & "reliability")

Receiving personal information regarding the user (see Wellman, figure 5B, item 554, these attributes are listed in Figure 2 including "buyer credit rating")

Obtaining objective information about the user from a third party (see Wellman, figure 5B, item 554, these attributes are listed in Figure 2 including "buyer credit rating")

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Formulating an initial value (see Wellman, Figure 5A, Item 508)

Although Wellman does not have formulating an initial value by the Registration Server, Ebay claims, "by the Registration Server" (See ebay feedback forum and feedback rating system)

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add formulating an initial value by the Registration Server as taught in Ebay to Wellman.

It is clear that one would be motivated because valuable tool to help auction traders.

Re claim 2: Wellman discloses:

Objective information includes a credit report (see Wellman, Figure 2, "buyer credit report")

Re claim 3: Wellman discloses:

Personal information is received from a web client

The examiner sights Official Notice it is well know by someone of ordinary skill in the art at the time of the invention that "receiving and transmitting over a web client" is well know.

Re claim 4: Wellman discloses:

Receiving a transaction history for the user (see Wellman, Figure 2, "buyer credit rating" it is well know that a buyer credit rating is made up of transaction history)

Modifying the reliability rating based on the transaction (see Wellman, Figure 5A, Item 508)

Re claim 5: Wellman discloses:

Receiving feedback about the user (see Wellman, figure 5B, item 554, these attributes are listed in Figure 2 including "buyer credit rating")

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Based on the feedback modifying the reliability rating (see Wellman, Figure 5A, Item 508)

The examiner would note that feedback is very vague and this could be any kind of feedback. However, if the applicant chooses to be more specific to forum feedback then the ebay reference cited in the applicants IDS (10/11/2001) would be considered prior art.

Re claim 6: Wellman discloses:

Sharing the reliability rating with at least on auction server (see Wellman, Figure 1)

Re claim 7: Wellman discloses:

Reliability rating includes at least one of a buying limit and a selling unit (see Wellman, Figure 3, price "minimum and maximum")

Re claim 8: Wellman discloses:

Presenting to the user a rationale for why the user received the initial value (see Wellman, Figure 5A, item 508 by definition of "graph" there must be a rational)

Re claim 9: Wellman discloses:

*A method in a data processing system for managing auctions (see Wellman, title)
Receiving personal data about a user (see Wellman, Figure 2, "buyer credit rating")*

Based on the user reliability rating, regulating the user's access to selected auctions (see Wellman, Figure 3, seller reliability, although they do not use the exact

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language of “regulating user access” that the low reliability calculation will clearly have an effect of limiting a seller access)

Although Wellman does not have formulating an initial value by the Registration Server, Ebay claims, “Formulating an initial value by the Registration Server” (See ebay feedback forum and feedback rating system) Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add formulating an initial value by the Registration Server as taught in Ebay to Wellman. It is clear that one would be motivated because valuable tool to help auction traders.

Re claim 10: Wellman discloses:

Regulating the user’s access to the selected auction includes one of denying the user access to the selected auctions and allowing the user access to the selected auction (see Wellman, Figure 3, seller reliability, although they do not use the exact language of “regulating user access” that the low reliability calculation will clearly have an effect of limiting a seller access)

Re claim 27: Wellman discloses:

A data processing system for rating an online auction user comprising:

A bus system (see Wellman, Figure 3, Item 112)

A memory (see Wellman, Figure 3, Item 110)

A processing unit (see Wellman, Figure 3, Item 104)

Re claim 11-34:

The following claims listed below in the following format have repetitive content & similar limitations. Therefore the claims are rejected based on the caparison chart below.

11 =1 + 9

19 & 27 =1

12 & 20 & 28 = 2

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 $13 \& 21 \& 29 = 3$ $14 \& 22 \& 30 = 4$ $15 \& 23 \& 31 = 5$ $16 \& 24 \& 32 = 6$ $17 \& 25 \& 33 = 7$ $18 \& 26 \& 34 = 8$ **(10) Response to Argument****1a. Argument for Group A, claims 1, 19 & 27 lacks prior art**

Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature "formulating an initial value"

The examiner refutes these arguments and draw the attention to Wellman Figure 5A. It is important to review this figure in it's entirety which can be found in column 7 line 16-61. Item 504 "add assigned attributes" defines the items that go into to the calculation of Wellman. These are similar to that of the applicant "for example, buyer credit rating" (see Wellman column 7, line 24) these are then dues to "generate weighted bipartite graph." A graph is a "formula" or "calculation" which the applicant is trying to argue it is not. In item 512 it outputs optimal matches or initial values which are matched. The examiner argues that Wellman does what the applicant has claim but even takes it one step further by matching buyer and sells which the applicant does not claim.

The applicant further argues that "Wellman discloses reliability attributes are pre-assigned." The examiner disagrees with this interpretation of "preferably pre-assigned" means it could or could not be pre-assigned also Wellman states credit ratings may be a rating assigned by a third-party can be interpreted that the information may or may not be from a third party. Although the examiner is arguing that she does not believe Wellman is limited to being "pre-assigned" or from a "third-party" is irrelevant because the applicants claims does not specify non-pre-assigned or non-third-party.

The examiner agrees that Wellman does not specify that the initial value is by the "Registration Server for a reliability rating." Wellman the initial value is used to match

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buyers and seller directly – the Registration Server and reliability rating is a “black box” that individuals can not see their reliability rating they only know the outcome of the match.

The applicant then argued that ebay does not “formulating an initial value by the Registration Server for a reliability rating bases on at least the objective information.” The examiner refutes this argument. ebay clearly formulates and initial value as can be seen from the “Feedback rating system is easy. You receive +1....” These points are used to calculate or formulate feedback rating or reliability rating. Clearly adding and subtracting points is “formulating an initial value”.

In conclusion it is a fact that Wallman in view of ebay does clearly show “formulating an initial value by the Registration Server for a reliability rating bases on at least the objective information.”

2a. Argument for Group B, claims 2, 12, 20 & 28 lacks prior art

Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature “credit report.”

The examiner refutes these arguments and draw the attention to Wellman Figure 2 “buyers credit rating.” The applicant further argues a credit rating and credit report are different because a “credit report cannot be matched or compared.” All of this is simply incorrect, Wellman's credit report can be matched – that is what the patent is doing. In the broadest reasonable interpretation a credit report and a credit rating are the same thing.

3a. Argument for Group C, claims 4, 5, 14, 15, 22, 23, 30 & 31 lacks prior art

Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature “transaction history”

The examiner refutes these arguments and notes that a “credit report” is made up of transaction history. In addition ebay reference is based on transaction history as noted on item 2 – “members leave messages about a buy or sell transaction” – or “transaction history”

4a. Argument for Group E, claims 7, 17, 25 & 33 lacks prior art

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Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature "buying and selling limit"

The examiner refutes these arguments and draw the attention to Wellman Figure 3. As noted in the Final Office action price has a minimum and maximum amount. The applicant argues this is not the reliability rating. The examiner would like to note that each of the attributes have a variance or "buying and selling limit." While the reliability rating is a black box in the Wellman patent it is clear that more than one variable is used to determine the "buying and selling limits" based on the multiple variances. Therefore it is a fact that Wellman does contain a "buying and selling limit" for the "reliability rating"

5a. Argument for Group E, claims 8, 18, 26 & 34 lacks prior art

Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature "presenting to the user a rational for why the user received the initial value"

The examiner refutes these arguments and draw the attention to Wellman Figure 5a. The examiner again states that a graph is a representation of the formulation or calculation that developed an initial value and match. In addition ebay contains "The Feedback Rating System is easy. You receive - +1 point for...." Clearly explaining the computation or rational for the rating. Ebay even has an example – Skippy received 125 point means that 125 positive comments. It is a fact that Wellman in view of ebay show "rational for why the user received the initial value."

6a. Argument for Group E, claims 8, 18, 26 & 34 lacks prior art

Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature "presenting to the user a rational for why the user received the initial value"

The examiner refutes these arguments and draw the attention to Wellman Figure 5a. The examiner again states that a graph is a representation of the formulation or calculation that developed an initial value and match. Mathematics by definition is rational and logical therefore it is inherent in Wellman that calculating a graph viewed by the users expresses the rational – if not how would the lines on the graph be developed?

In addition ebay contains "The Feedback Rating System is easy. You receive - +1 point for...." Clearly explaining the computation or rational for the rating. Ebay even has an

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example – Skippy received 125 point means that 125 positive comments. It is a fact that Wellman in view of ebay show “rational for why the user received the initial value.”

7a. Argument for Group G, claims 9, lacks prior art

Appellant's argued that Examiner failed to state a prima facie obviousness rejection of feature “regulating the users access”

The examiner refutes these arguments and draw the attention to Wellman Figure 3. The variances here impact the user. Wellman goes further than the applicants invention and matches buyers and selling, therefore by not having any matches would clearly limit a user.

1-2-3 b & c. Lack Motivation to Combine references for all claims

Appellant's argued that Examiner failed to state a prima facie obviousness rejection because the Examiner has not stated a proper teaching, suggestion or motivation to combine references.

The examiner refutes these arguments and draw the attention to KSR. Appellants' pre-KSR brief argues that there is not teaching suggestion or motivation to combine references. KSR forecloses Appellant's argument that a specific teaching is required for a finding of obviousness. KSR, 127 S.Ct. at 1741, 82 USPQ2d at 1396. Claims 1, 19 & 27 recite combinations which only unite old elements with no change in their respective functions and which yield predictable results. Thus, the claimed subject matter likely would have been obvious under KSR.

Wellman and ebay are analogous art and could be combined.

Conclusion

The examiner has show that each and every element of the applicants invention is show in the prior art of Wellman in view of ebay. Some element are actually contained in both. Wellman is actually more comprehensive than the applicants invention because it not only does all the step of the applicant it does one more set of matching buyers and sellers. There is nothing in the applicants invention that is not already being done in Wellman and ebay as well as other prior art references not listed.

(11) Related Proceeding(s) Appendix

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No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Kirsten Apple'.

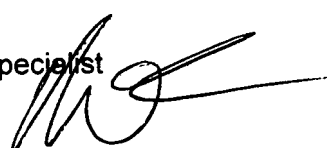
Kirsten Sachwitz Apple
Examiner
Art Unit 3693

Conferees:

James Kramer, SPE

A handwritten signature in black ink, appearing to be 'JK'.

Vincent Millin, Appeals Conference Specialist

A handwritten signature in black ink, appearing to be 'VM'.